

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

Kendall L. Small,)	
)	
Plaintiff,)	Civil Action No. 2:20–970-RMG
)	
vs.)	
)	
Andrew Saul, Commissioner of Social Security,)	
)	ORDER
)	
Defendant.)	
)	
)	
)	

This matter comes before the Court for judicial review of the final decision of the Commissioner of Social Security denying Plaintiff’s application for Disability Insurance Benefits (“DIB”) and Supplemental Security Income (“SSI”). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to the United States Magistrate Judge for pretrial handling. The Magistrate Judge issued a Report and Recommendation (“R & R”) on April 23, 2021, recommending that the decision of the Commissioner be reversed and remanded to the agency because the Administrative Law Judge failed to appropriately evaluate and weigh Plaintiff’s VA disability rating, the opinions of his treating physician, and Plaintiff’s subjective complaints. (Dkt. No. 24 at 7-20). The Magistrate Judge further recommended that the remand be with a directive to award benefits because Plaintiff is entitled to a finding of disability as a matter of law and further administrative processing would serve no purpose. (*Id.* at 20). The Commissioner has advised the Court that he does not intend to file objections to the R & R. (Dkt. No. 25).

The Court has reviewed the R & R and the record evidence and finds that the Magistrate

Judge has ably addressed the factual and legal issues in this matter. Therefore, the Court **ADOPTS** the Report and Recommendation as the order of this Court, **REVERSES** the decision of the Commissioner pursuant to Sentence Four of 42 U.S.C. § 405(g), and **REMANDS** the matter to the Commissioner with directions to award benefits from Plaintiff's onset date of August 12, 2011..

AND IT IS SO ORDERED.

s/ Richard Mark Gergel
Richard Mark Gergel
United States District Judge

Charleston, South Carolina
May 10, 2021